

EXHIBIT I

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From: Strange, John <JStrange@cityofmadison.com>

Sent: Friday, August 23, 2019 7:16 AM CDT

To: Evers, Tag <district13@cityofmadison.com>

Subject: Re: Comments on amendment to Campus/Institutional Zoning Ordinance

I think so. I'll study it a bit more today. I would suggest not doing another substitute right now. We can discuss whether you want to make these changes and, if so, you can raise them at the PC and recommend that they recommend approval of the 2d sub with changes. Then, we can do a third substitute before it goes to CC. That kind of thing happens often.

I'll study this a bit more and we can chat later today.

John

John W. Strange
Assistant City Attorney
Madison, Wisconsin
608-266-4511

From: Evers, Tag

Sent: Friday, August 23, 2019 6:31 AM

To: Strange, John

Subject: Fw: Comments on amendment to Campus/Institutional Zoning Ordinance

Good morning, John.

Do you understand the gist of Ethan's email?

Thanks.

Tag Evers
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From: Ethan Brodsky <ethan.brodsky@gmail.com>

Sent: Thursday, August 22, 2019 10:34 PM

To: Evers, Tag

Subject: Comments on amendment to Campus/Institutional Zoning Ordinance

Alder Evers -

I am sending this specifically to you, as it contains a number of suggestions for improving the language of the proposed changes to the Campus/Institutional Zoning ordinance. I still see some minor issues with the changes as of the "Version 3" in legistar and wanted to offer suggested improvements to you directly.

I am also going to send a less detailed version of this letter to the Planning Commission and later to all alders which includes my unequivocal support for the ordinance but not the suggested improvements, as I don't want to be responsible for creating confusion or sowing doubt regarding a change that I think would be a great first step in fixing the CI Zoning and an enormous improvement over the status quo.

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I am writing to express my support for:

"2nd SUBSTITUTE Amending Sections 28.097(2) and (3) of the Madison General Ordinances to require conditional use approval in the Campus-Institutional District for the establishment, improvement, or modification exceeding 4,000 square feet in area on a zoning lot of any primary use and to require conditional use approval for the establishment, improvement, or modification of identified secondary uses."
(File #56981)

The Campus/Institutional Zoning Ordinance has a number of issues and this ordinance would address some of them.

First, this change makes the CI District Zoning operating principles consistent

with the rest of the city's zoning. In MGO 28.004 "Interpretation":

This ordinance applies to all land and land development within the jurisdictional limits of the City of Madison, Wisconsin.

(1) This ordinance should be interpreted as a permissive zoning ordinance, which means that the ordinance permits only those principal and accessory uses and structures that are specifically enumerated in the ordinance. In the absence of a variance or special exception, any uses or structures not specifically permitted by the ordinance are prohibited.

Almost every district in the city defines a list of "Permitted Uses", "Accessory Uses" and/or "Conditional Uses". This includes the Special Districts, with the only exception being the Campus/Institutional District, which has a list of "Primary Uses" and "Secondary Uses", but no definition as to how they are allowed. While many have assumed that the Primary Uses were "Permitted" and the Secondary Uses were "Conditional", this is not stated anywhere, and it is essential that this be clarified in the ordinance.

The problem is exacerbated by inadequate language in 28.097(2)(c) that allows such districts without a Master Plan to engage in any sort of development, construction, or changes in use, as long as they did not involve a building with more than 4,000 square feet of floor area.

The proposed amendment does so, clarifying that any development related to uses in the "Secondary Uses" list require a Conditional Use approval, consistent with what is required in other districts for uses other than the primary, intended, use of a parcel as defined by its zoning.

It is also modifies the language for developments related to the Primary Use, clarifying that development that does not include enclosed buildings is covered. I would suggest, however, that the new language is still somewhat ambiguous. I read the new language as being:

(c) In a Campus-Institutional District without a Campus Master Plan, individual development proposals, improvements, or modifications related to primary uses identified in sub. (3)(a) below require conditional use approval except that any proposals, improvements, or modifications not exceeding four thousand (4,000) square feet in [sic] on a zoning lot within any five (5) year period are allowed. "

As this is written, it is unclear whether the "except" includes "any proposals, improvements, or modifications not exceeding four thousand (4,000) square feet" ***that do not relate to primary uses***. The following (d) makes it clear that all development relating to secondary uses requires a CUP, but (c) could be read as contradicting that.

What I think the ordinance means to say is:

(c) In a CI district without a Master Plan, individual development proposals, improvements, or modifications relating to primary uses identified in sub. (3)(a) below require conditional use approval if they exceed 4,000 square feet on a zoning lot within any five year period."

Furthermore, it is unclear whether the square foot limitation is cumulative across all projects over a five-year period, or applies only to "individual" projects, or exactly what. Perhaps that language could be further clarified? I don't actually understand what the intent is for that, so I am not going to suggest improved language.

It is clear that these changes are consistent with the original intent of the ordinance, as the city wrote the ordinance with the intent of encouraging Campus/Institutional entities to have a Master Plan and would not have intentionally allowed greater privileges for institutions that lack them than institutions that have them. This is clear for a number of reasons:

1. In the "Statement of Purpose Section", the ordinance states that "The CI District is established to recognize the City's major educational and medical institutions as important activity centers and traffic generators, accommodate the growth and development needs of these institutions, and coordinate the master plans of these institutions with the City's plans, policies and zoning standards. The district is also intended to:
 - ...
 - (c) Encourage the preparation of Campus Master Plans that enable adjacent neighborhoods and the broader community to understand the levels of development being proposed, their likely impacts, and appropriate

mitigation measures."

2. All newly-formed CI Districts created after the formation of the ordinance were *required* to have a Master Plan, to be "approved as part of the map amendment."

While I strongly support this ordinance, I also would like to state that I oppose allowing Edgewood to be released from the agreements in its Master Plan. The Master Plan encompasses much more than these questions of use and this ordinance is nowhere near adequate to eliminate the harm associated with allowing an institution to abrogate its Master Plan. I have written at length on this topic in a separate letter.

I would suggest, further, that 28.097(2)(b) be updated to say something along the lines of:

Approved Campus Master Plans shall be effective in full for ten (10) years, and, during that period, may be altered pursuant to (8) below. After the conclusion of the ten-year period, all existing conditions, whether they be defined in the "Existing Conditions" section of the Master Plan or defined in the "Proposed Conditions" section at the time of the approval of the Master Plan but are now actually constructed, and all other agreements regarding use, remain in effect until the approval of a new Master Plan.

This would further achieve the city's goal of eventually having all CI parcels have adopted and approved Master Plans, and eliminate an ambiguity that is going to arise in the future, when Master Plans start expiring and nobody is sure what to do when a district has an "approved" master plan that is not "effective".

Finally, as long as I am writing, I would like to suggest a few additional miscellaneous technical corrections in city ordinances:

28.091 SPECIAL DISTRICT USES.

(1)

"Table 28G-1 lists all permitted and conditional uses in the Special Districts, except that uses allowed within the Campus Institutional District are listed separately in Sec. 28.096."

This should read "listed separately in Sec. ***28.097.***"

8.40 PRESERVATION OF CONSERVATION PARKS.

(2) Definitions

"Firearm" has the meaning set forth in Wis. Stat. 25.01(1)."

Wis. Stat 25.01 relates to the State Investment Fund. This should reference ***MGO*** 25.01, not Wis. Stat.

Thank you for your consideration,

Ethan Brodsky